Before the FEDERAL COMMUNICATIONS COMMISSION Washington D.C. 20554

In re Application of)
New Young Broadcasting Holding Co., Inc.)) File No. BTCCDT-20130703ADG) MB Docket No. 13-191
For Voluntary Transfer of Control of)
WLNS-TV, Lansing, Michigan)
Facility ID No. 74420)

To: The Secretary, Federal Communications Commission

Attn: The Chief, Video Division, Media Bureau

REPLY TO OPPOSITION

Spartan-TV, L.L.C. ("Spartan"), licensee of WHTV(TV), Jackson, Michigan (Facility ID No. 29706), hereby replies to New Young Broadcasting Holding Co., Inc.'s Opposition To Informal Objection ("Opposition"). Spartan's goal in this proceeding is simple: it seeks assurance that the Commission's rules and policies governing joint sales agreements ("JSAs") and shared service agreements ("SSAs") apply equally to small broadcasters, such as Spartan, and large broadcasters, such as the proposed post-merger Young Broadcasting Holding Co., Inc. ("Young")/Media General Communications Holdings, LLC ("Media General") company. SSAs and JSAs provide countless efficiencies, enhance the public interest, and often allow small broadcasters to survive in an increasingly consolidated ownership marketplace. But SSAs and JSAs provide these benefits only when the

Spartan is a party-in-interest to the above-captioned proceeding. WLNS-TV and WHTV are both located in the same market, and contrary to the Opposition, "[i]t is well established that a competitor of an applicant has party-in-interest status." *See Dan J. Alpert, Esq.*, 26 FCC Rcd 10328 (M.B. 2011). "[W]here standing is derived from status as a competitor in the market, a petitioner does not need to demonstrate that it will suffer a direct injury from grant of an application. Nor, as a competitor, must it demonstrate, or even allege that it will be subjected to increased or materially different competition as a result of the proposed assignment." *Id.* (internal quotations, punctuation, and citations omitted). Moreover, informal objections do not require party-in-interest status and may be filed by "any person."

New Young Broadcasting Holding Co., Inc., Opposition to Informal Objection, MB Docket No. 13-191 (filed Aug. 19, 2013) ("Opposition").

licensees carrying them out – both big and small – administer them as the FCC's rules and policies mandate and intend.

In its Informal Objection, Spartan presented evidence that Young has assumed actual (de facto) control over WLAJ(TV) in violation of the Commission's rules governing broadcast ownership and unauthorized transfers of control. Young station WLNS-TV executed an SSA with WLAJ(TV), which is licensed to WLAJ-TV, LLC. In determining the legality of SSAs and JSAs, the FCC has looked at whether a station retains control over its programming, personnel, and finances. requirements is that the station retain two employees at its main studio, including one manager. As stated in the Informal Objection, based upon Spartan's observations, the two employees retained by WLAJ(TV) report to Young -- not WLAJ-TV, LLC, meaning that WLAJ(TV) has not maintained the required independent management structure. Specifically, the Opposition contains the Declaration of Robert Simone, in which he states that he is "the General Manager of WLNS-TV" and that he has "been involved in the provision of services to WLAJ-TV and worked with its personnel." However, as shown in Exhibit A, Simone held himself out in March 2013 as the Vice President/General Manager of Young Broadcasting – Lansing for stations WLNS and WLAJ.⁴ Then, as shown in Exhibit C, in an email received only after the Opposition was filed, Simone's signature block was changed to remove WLAJ.5 Moreover, as shown in the Declaration of Kristine Melser, Station Manager of WHTV, the Station Manager position at WLAJ was vacant until August 16, 2013.⁶ It was then that Chuck Toner was appointed Station Manager of WLAJ – eight days after Spartan's Informal Objection was filed with the Commission.⁷ Thus, contrary to what the Opposition claims, Mr. Toner would not have been

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Opposition, Declaration of Robert Simone.

See Exhibit A; see also Exhibit B (May 29, 2013).

⁵ See Exhibit C.

⁶ See Declaration of Kristine Melser.

⁷ *Id*.

responsible for "coordinat[ing] with the station's owner on the station's programming decisions." Together, Simone's signature block change and Toner's hasty appointment to WLAJ's previously vacant station manager position should be seen as a *de facto* admission by Young that they had not been operating in compliance with the rules.

Additionally, aside from any sharing agreements between Young and WLAJ-TV, Young has a direct financial interest in WLAJ. The controlling interest in the debt that WLAJ-TV, LLC used to acquire WLAJ is ultimately controlled by Young. In fact, the debt of Shield Media Lansing LLC ("Shield"), the parent company of WLAJ-TV, is being transferred as part of the proposed merger transaction.⁹

While the licensee of WLAJ-TV functions as a façade to allow Young's unauthorized duopoly control of both WLAJ(TV) and WLNS-TV, Spartan, itself party to an SSA with WLNS-TV with its station WHTV, abides by the FCC's requirements for sharing agreements. Spartan retains ultimate control and management of WHTV. Spartan negotiates for and secures its own programming for WHTV. Spartan maintains an independent identity for WHTV in the Lansing market. Spartan's WHTV station manager and traffic manager report directly to Spartan's vice president, and they interact on a day-to-day basis with Spartan senior management. In short, the Spartan/Young SSA is the antithesis of the WLAJ-TV/Young SSA.

The FCC's rules and policies for sharing arrangements were not designed to be followed strictly by small broadcasters and circumvented by larger ones. As detailed in its Informal Objection, Spartan seeks assurance that the WLAJ-TV/Young SSA complies with the FCC's rules and policies. Absent this

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⁸ Opposition, at 5 n.11.

Agreement and plan of Merger by and among Media General, Inc., General Merger Sub 1, Inc., General Merger Sub 2, Inc., General Merger Sub 3, Inc., and New Young Broadcasting Holding Co., Inc., 5 June 2013, Section 2.12 (a) (ii), Section 4.2 (f), Section 8.3: (bbb), (lll), and (hhh)

assurance, Spartan urges the FCC to investigate the WLAJ-TV/Young arrangement and hold the

proposed merger in abeyance until the investigation is completed.

With that in mind, the Opposition is nothing more than a laundry list of red herring arguments.

Spartan is not plotting to "grab WLAJ-TV's ABC affiliation," Spartan is not scheming for leverage in

future sharing arrangement negotiations, and Spartan's objection is not part of some "farcical

overreach," which is ironic word choice considering the Opposition's blustery, bombastic prose. Simply

put, Spartan believes it is in the Commission's interest to ensure that there is a level playing field in

which all broadcasters have to follow the same rules. Young's inability to provide such assurances in its

Opposition raises enough concerns that the FCC should begin an investigation and consider putting

special conditions on the transfer of the above-captioned license to a new entity.

Pursuant to the ex parte rules for restricted proceedings, Spartan would not object to meeting

with the FCC, Young, Media General, and Shield – the parties involved in the Young/Media General

merger – if the FCC wishes to request such a meeting to discuss and clarify issues related to the ultimate

management of WLAJ-TV. 10

Respectfully Submitted,

Spartan-TV, LLC

Lawrence Rogow

Chairman

Spartan-TV, LLC 5670 Wilshire Boulevard

Suite 1300

Los Angeles, CA 90036

Dated: August 26, 2013

See 47 C.F.R. § 1.1202(a)-(b).

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AFFIDAVIT

I, Lawrence Rogow, the Chairman of Venture Technologies Group, LLC, and Manager of Spartan-TV, LLC, which is the licensee of WHTV(TV), Jackson, Michigan (Facility ID No. 29706), hereby declare under penalty of perjury that the facts contained in the "Reply to Opposition" submitted on August 26, 2013 for MB Docket No. 13-191 are true and correct to the best of my belief and understanding.

Date: August 26, 2013

Lawrence Rogow

CERTIFICATE OF SERVICE

- I, Christine Meng, hereby certify that copies of the "Reply to Opposition" dated August 26, 2013, for MB Docket No. 13-191 were submitted electronically to the followings:
 - 1. Federal Communications Commission, MB Docket No. 13-191 via the Electronic Comment Filing System (ECFS): http://fjallfoss.fcc.gov/ecfs2/
 - 2. The Commission's duplicating contractor, Best Copy and Printing, Inc. via email to fcc@bcpiweb.com.
 - 3. Evan Morris of the Video Division, Media Bureau, via email to evan.morris@fcc.gov.

Christine Meng

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Exhibit A

From: Scott <s @

Sent: Tuesday, August 20, 2013 3:44 PM

To: k @ @ Subject: FW: Staff Meeting

From: Bob Simone [mailto:

Sent: Monday, March 25, 2013 1:36 PM

To: _staff

Cc: Kristine Melser; Donald Czubak

Subject: Staff Meeting

Please plan to join your fellow YB Lansing staff and managers for an all-hands meeting on Wednesday, April 3rd. No formal agenda - I will say a few words welcoming our new WLAJ team members, about our results in the Feb Book and some special honors we have received.

Morning meeting starting at 9AM - juice, bagels and donuts served Afternoon meeting starts at 2PM - Cookies and soft drinks served.

See you all there!

Robert M. Simone
Vice President/General Manager
Young Broadcasting - Lansing
WLNS-CBS ● WLAJ-ABC ● wIns.com
Lansing, Michigan
517-

Exhibit B

From: Scott <s @

Sent: Tuesday, August 20, 2013 3:43 PM

To:

Subject: FW: Yesterday's Storm/Tornado Threat Coverage

From: Bob Simone [mailto:

Sent: Wednesday, May 29, 2013 11:41 AM

To: _staff

Cc: Deb McDermott; Bob Peterson; Jim Carr; Cindy Tipler **Subject:** Yesterday's Storm/Tornado Threat Coverage

Just a short note to congratulate everyone in the news room on the most outstanding storm/tornado threat coverage yesterday. And by outstanding, I mean not only the tops in Lansing (for sure!) but some of the best and deepest television and digital coverage done by a local broadcaster in a weather emergency.

You kept the viewers/visitors informed, prepared and ready without being over-the-top and hyper in what could have been a terrifying situation. On-air and on-line you were the information center for our market.

David, your anchoring was first rate - clear, concise and easy to understand. And you made all the right calls to stay on the air late in the evening when others went to regular programming. You also used the Storm-Tracking tool to perfection, letting the viewers/visitors know exactly when the severe weather would hit there area.

Jim, your coverage on the ground was an integral part of the presentation - it brought the viewers/visitors into the weather.

And thanks, Jake, for calling in on your own time to give viewers/visitors your prospective and pics.

The contributions by the anchors and reporters, especially Greg, and behind-the-scenes team - too numerous to detail here - were fantastic.

Separating WLNS/WLAJ/wlns.com from our competition and enhancing our coverage was the expert use of 3-D graphics, our tower cams which offer exclusive horizon views and prospective, and the Storm-Tracker vehicle cam which took the viewers closer to the problem areas.

In addition, we recognize the efforts by our digital team. Continual updates on wlns.com integrated with on air mentions to send pics and video to our Facebook page plus the maps, 34 of which we posted, resulted in a huge day: wlns.com hit 97,804 page views and 22,050 unique visitors yesterday - a station record, Facebook "Talking About This" numbers (engagement) increased more than 1,000, we gained 500 new Facebook Likes and added 200 new Twitter followers from the 30 tweets that were generated by our digital team.

Lastly, kudos to Norm who quarterbacked the entire process - GREAT JOB!!

Super coverage by a team of dedicated professionals.

Robert M. Simone

Vice President / General Manager Young Broadcasting of Lansing WLNS-CBS, WLAJ-ABC, The CW Mid-Michigan, wlns.com Lansing, Michigan 517-3

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Exhibit C

Bob Simone

Tuesday, August 20, 2013 12:31 PM Report & Bob Simone From: Sent:

To: Cc: Spartan Show Subject:

Are you in today? Pls call me when you have a minute.

Robert M. Simone

Vice President / General Manager Young Broadcasting of Lansing WLNS-CBS, Live-Well Network, wlns.com Lansing, Michigan 517-

DECLARATION OF KRISTINE MELSER

- I, Kristine Melser, hereby declare as follows:
 - 1. I am Station Manager of WHTV(TV), Jackson, Mich. (Fac. ID 29706).
- 2. I received the emails provided in Exhibits A-C. The email addresses provided on these emails have been redacted.
- 3. On August 19, 2013, Chuck Toner and I had a conversation during which he told me that he had been appointed Station Manager of WLAJ(TV), on August 16, 2013. Prior to Mr. Toner's appointment, WLAJ(TV) did not have a Station Manager.
- I, Kristine Melser, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on August 23, 2013.

Kristine Melser